

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

SANDRA RODRÍGUEZ-COTTO;
RAFELLI GONZÁLEZ-COTTO

Plaintiffs,

v.

WANDA VÁZQUEZ-GARCED, Governor of
Puerto Rico; **DENNISE N. LONGO-QUINONES**,
Secretary of Justice of Puerto Rico; **PEDRO JANER**,
Secretary of the Department of Public Safety of
Puerto Rico; **HENRY ESCALERA**, Commissioner
of the Puerto Rico Police Bureau, all in their official
capacities

Defendants.

CIVIL No. 20-01235 (PAD)

RE: Preliminary and Permanent
Injunction

JOINT FACTUAL STIPULATIONS

TO THE HONORABLE COURT:

COME NOW, Plaintiffs and Defendants, through their undersigned attorneys, and very respectfully submit the below stipulation of uncontested facts (the “Stipulation”), in connection with and solely for the purposes of the preliminary injunction hearing scheduled for June 24, 2020. Absent agreement of the parties, this Stipulation may not be used or introduced at any subsequent stage of this adversary proceeding, in any other proceeding before this Court, or in any other Court or administrative proceeding.

Nothing in this Stipulation shall constitute a waiver of any party’s right to assert or dispute facts that are not stipulated, including evidence submitted by either party in connection with Plaintiffs’ motion for preliminary injunction. In addition, nothing set forth in this Stipulation shall constitute a waiver of any party’s right to argue that any facts or statements set forth herein are not relevant to Plaintiffs’ motion for preliminary injunction.

Finally, nothing set forth in this Stipulation shall constitute an admission or a waiver of any claim, defense, argument or position of any party, or of the right of any party to dispute, and/or take discovery respecting, the facts set forth herein following the preliminary injunction hearing.

1. On September 18, 2017, a State of Emergency was declared by then-Governor Ricardo Rosselló-Nevares due to the devastation caused by Hurricane María.

2. On January 7, 2020, a State of Emergency was declared by Governor Wanda Vázquez-Garced due to the devastation caused by an earthquake.

3. On March 12, 2020, a State of Emergency was declared by Governor Wanda Vázquez-Garced due to the COVID-19 pandemic.

4. The above-mentioned Executive Orders were issued under the authority of Act No. 20-2017, Art. 6.10.

5. Act No. 20-2017, Art. 6.14 is codified at 25 L.P.R.A. § 3654.

6. Act No. 20-2017, Art. 6.14 was amended by Act No. 35-2020 on April 5, 2020.

7. The Government of Puerto Rico charged Pastor José Luis Rivera Santiago under Art. 6.14(a) of Act. No. 20-2017 for allegedly disseminating a false alarm on the messaging platform WhatsApp, in late March.

8. On April 7, 2020, due to the global COVID-19 pandemic, Governor Vázquez-Garced issued Executive Order No. 2020-032 (“EO 2020-032”), mandating a total lockdown of all businesses in Puerto Rico effective from Friday, April 10th until Sunday, April 12th, 2020, with limited exceptions related to prepared food establishments (delivery/drive-through only), pharmacies, gas stations, elderly care centers and organizations or groups that provide services

to address the needs of economically disadvantaged people, such as shelters for the homeless and foodbanks, among others.

9. On May 7, 2020, the Court of San Juan dismissed the prosecution against Pastor Rivera Santiago for lack of probable cause.

10. On March 29, 2020, Sandra Rodríguez-Cotto published a story regarding an alleged corruption scheme in the Department of Health in connection with contracts issued during the COVID-19 pandemic. S. Rodríguez-Cotto, *Cabeza en Salud: El esquema de contrataciones en medio de la pandemia de COVID-19*, <https://enblancoynegromedia.blogspot.com/2020/05/sou-mabel-comentario.html> (published on March 29, 2020).

11. On May 5, 2020, Sandra Rodríguez-Cotto published a story regarding a public hearing held by the Puerto Rico House of Representatives in connection with the purchase of COVID-19 rapid tests by the Department of Health. S. Rodríguez-Cotto, *'Sou' Mabel*, <https://enblancoynegromedia.blogspot.com/2020/05/sou-mabel-comentario.html> (published on May 5, 2020).

12. On May 13, 2020, Sandra Rodríguez-Cotto published a story regarding the alleged corruption scheme in the Puerto Rico Department of Health based on e-mails provided by sources from the Department of Health. S. Rodríguez-Cotto, *Se valida el poder de Mabel Cabeza*, <https://enblancoynegromedia.blogspot.com/2020/05/se-valida-el-poder-de-mabel-cabeza.html> (published on May 13, 2020).

13. On May 16, 2020, Sandra Rodríguez-Cotto published a journalistic article in which she denounced the alleged squandering of funds in the Department of Health during the COVID-19 pandemic. S. Rodríguez-Cotto, *Caso AEE: A oscuras por un engreído*,

<http://enblancoynegromedia.blogspot.com/2020/05/caso-aee-oscuras-por-un-engreido.html>
(published on May 23, 2020).

14. On May 23, 2020, Sandra Rodríguez-Cotto published a story asserting that the Puerto Rico Electric Power Authority was providing erroneous information as to the cause of a blackout. S. Rodríguez-Cotto, *Caso AEE: A oscuras por un engreído*, <http://enblancoynegromedia.blogspot.com/2020/05/caso-aee-oscuras-por-un-engreido.html> (published on May 23, 2020) (retrieved on June 3, 2020)

15. On May 26, 2020, Sandra Rodríguez-Cotto published a story in which the statistics provided by the Department of Health regarding the COVID-19 pandemic were questioned. S. Rodríguez-Cotto, *Municipios con más peligro por COVID-19*, <https://enblancoynegromedia.blogspot.com/2020/05/municipios-con-mas-peligro-por-covid-19.html> (published on May 26, 2020) (retrieved on June 3, 2020).

16. On June 14, 2020, Sandra Rodríguez-Cotto published a video blog in her Facebook page in which she criticizes the government regarding the COVID-19 pandemic and comments about a possible resurgence of the COVID-19 infection cases. See <https://www.facebook.com/SRCSandraRC/videos/266484387962818>.

17. As of the date of this stipulation, Plaintiffs have not been prosecuted by the Government of Puerto Rico for violations to Section (a) or (f) of Article 6.14 of Act No. 20-2017.

18. As of the date of this stipulation, Plaintiffs have not been threatened by the Government of Puerto Rico for violations to Section (a) or (f) of Article 6.14 of Act No. 20-2017.

19. On June 4, 2020, Plaintiffs participated in a public live stream video in which they openly discussed the allegations in the instant complaint with other panelists.

20. Plaintiffs published news stories challenging official information of the Puerto Rico Government during the states of emergencies declared since the enactment of Section (a) in 2017.

21. Plaintiffs published news stories challenging official information of the Puerto Rico Government during the states of emergencies declared since the enactment of Section (f) of Article 6.14 of Act No. 20-2017 in 2020.

22. Plaintiffs published numerous stories challenging official information of the Puerto Rico Government during the current state of emergency declared due to the COVID-19 pandemic.

23. Plaintiffs do not intend to transmit false statements in their journalistic or op-ed articles.

24. Sandra Rodríguez-Cotto has reported on the inadequacy of the responses by the U.S. government and the Puerto Rico government to the widespread devastation left by Hurricane María.

25. In 2017, Sandra Rodríguez-Cotto challenged the then-Chief-of-Staff, Ramón Rosario, during an on-air interview about the implausibility of the official death toll of Hurricane María while a State of Emergency was in full force.

26. On July 10, 2019, Plaintiff Sandra Rodríguez-Cotto revealed in her blog the first 11 pages of a Telegram chat between the then-Governor Ricardo Rosselló and his aides. Then after she published over 50 more pages of the chat and the articles went viral. Her reporting was picked up by media outlets across the world, including *The New York Times*, *The Guardian*, *Vice*, *MTV*, *Christian Science Monitor*, and many others.

27. Since then-Governor Rosselló-Nevares resigned, Plaintiff Sandra Rodríguez-Cotto has continued investigating and reporting on alleged irregularities in the Government of Puerto Rico.

28. Plaintiff Sandra Rodríguez-Cotto's reporting focuses on the public health emergency caused by the COVID-19 global pandemic and the government's response to that emergency.

29. Plaintiff Sandra Rodríguez-Cotto makes every effort to confirm the accuracy of her reporting and commentary, in accordance with standard journalistic practices.

30. Plaintiff Rafelli González-Cotto participated in the publication of several digital stories related to the Whitefish Energy scandal after Hurricane María.

31. Plaintiff Rafelli González-Cotto has written numerous news articles about the COVID-19 public health emergency, which have been published in different news outlets around the island. His articles have reported on conditions during the public health emergency, as well as the government's emergency and curfew orders.

32. In one article, Plaintiff Rafelli González-Cotto reported that certain companies had received government contracts for "rapid test kits" to detect the presence of COVID-19 antibodies.

33. Plaintiff Rafelli González-Cotto published, in collaboration with *NotiCel*, that the case fatality rate published by the Health Department was not calculated in accordance with generally accepted practices. Half an hour after the article was published, the Health Department removed the information from its website.

34. On March 11, 2020, Rafelli González-Cotto published an op-ed column on El Nuevo Día challenging the Government's narrative regarding the management of warehouses with supplies during the 2020 earthquake.

35. Rafelli González-Cotto published an article with *NotiCel* about the reopening of businesses during the COVID-19 pandemic. The article was based on information and documentary evidence provided to González-Cotto by an anonymous source.

36. Rafelli González-Cotto continues to engage in investigative reporting focused on the COVID-19 pandemic and the government's response.

37. Rafelli González-Cotto consistently follows standard journalistic practices to factcheck his news stories.

I HEREBY CERTIFY that the undersigned attorney electronically filed the foregoing with the Clerk of the Court, which will send notification of such filing to the parties subscribing to the CM/ECF System.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 19th day of June 2020.

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